IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LDG.) NO. 36 OF 2006.

Anand K.Thakur & another. ... Petitioners
Versus.
State of Maharashtra & others. ... Respondents.

Shri Sakhardande i/by Ms.Pallavi N.Ghalsashi for the Petitioners.

Ms.Geeta Shastri, A.G.P. for Respondents Nos.1, 4 and 5.

Shri G.D.Uttangale for Respondent No.2.

Ms.P.A.Purandare for Respondent No.3.

Shri Raju Morey for Gazdhar Scheme Residents Trust.

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.

DATED : 12th JANUARY, 2006.

P.C.:

1. Heard Shri Sakhardande in support of this petition. Ms.Shastri, A.G.P. appears for Respondent Nos.1, 4 and 5. Shri Uttangale appears for Respondent No.2. Ms.Purandare appears for Respondent No.3. Shri Morey represents Gazdhar Scheme Residents Trust, who have been given notice and is present on their behalf, who had filed Writ Petition No.743 of 2001 earlier.

2. The present petition is on behalf of certain occupants of an area situated in Santacruz (West). Their names are annexed at Exh.A to this petition. The petition makes a prayer that the State Government be directed to implement its Resolution dated 26th February

2004 and the persons concerned be accommodated in an appropriate slum rehabilitation project. Reliance is placed on the said decision. The decision does not talk about accommodating anybody post 1995. The persons concerned in this petition are admittedly those who have shifted over here after 1995.

3. The second document which is relied upon is the Government Resolution dated 14th November 2005 which is concerning two projects taken up by the State Government known as Metropolitan Urban Transport Project (MUTP) and Metropolitan Urban Infrastructural Project (MUIP). It is submitted that under these projects the occupants who are likely to be affected are being appropriately accommodated. Shri Sakhardande, therefore, submits that the Petitioners be accommodated similarly. Now if we see the resolution, it talks about specific projects viz. widening and renovation of Eastern Express Highway, Western Express Highway, Jogeshwari-Vikhroli Link Road, and Andheri-Ghatkopar Link Road. It is those persons who are affected by the above projects who are being accommodated. The present petition is not on behalf of any of those persons who are affected by those projects.

3. The Gazdhr Scheme Residents Trust had filed the above referred petition No.743 of 2001. It had been heard from time to time by different Division Benches

right from April 2001. On 31st October 2001, it was heard by a Division Bench to which one of us (Gokhale J.) was a party. The grievance of these residents, who are staying in that area in the buildings developed according to the sanctioned plans, is that large number of hutments have come up on the nalla to the west of this Guzdhar Scheme and because of these hutments, water which is expected to flow into the sea cannot flow down. Every year there has been water clogging and so much so that the flats of the residents in the entire scheme on the ground floor have been flooding every year. This has been much prior to the heavy flooding which took place in the entire city in July 2005. This Trust has moved the said petition way back in the year 2001 as stated above and when the said order was passed different organisations representing different hutment colonies were heard. It was noted that from amongst those hutment dwellers, some 718 were prior to 1st January 1995 and were eligible for rehabilitation as per the Government policy and some 646 were not eligible. The Government was expected to remove all of them. The matter went on lingering from time to time and the action on behalf of the Government also got delayed. In February 2004 it appears that final schemes were drawn and many of these hutment dwellers have been shifted. Ms.Shastri, the learned A.G.P. informs that out of 718, 480 have been shifted and the remaining are to be shifted to Anik Nagar, Chembur. It seems that over and

above this number, some further persons were also considered, since subsequently it was noted that the eligible persons were 783. Ms.Shastri states that all the eligible persons have been properly accommodated or will be accommodated. As far as the other hutment dwellers are concerned, it is not possible to accommodate them in any manner whatsoever. Ms.Shastri informs that the removal of the hutments is going to start from today. Shri Sakhardande makes a request that if the hutment dwellers are ready to shift, they may be provided some appropriate time. It will be for the hutment dwellers concerned to point out to the concerned officer in-charge of this removal. They must give it in writing that they are ready to shift by a particular date and if such request is given in writing, it will be for the officer to consider it. We do not say anything more. Petition is rejected.

(H.L.GOKHALE, J.)

(Abhay S.Oka, J.)